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Spoken with MIL and John Barr L
26.9.83

JHB/PC/24364

22nd September 1983

Dear Jack,

European Patent Application 82 300 637.4
Your Case: 28243 (PM 1035)
Our File: 24364

I enclose a copy of the first official action issued on this application, which is due for reply by 6th January 1984.

The Examiner is apparently content that the main claim defines a patentable invention, but requires some formal changes in the claim before accepting it. I can deal with the requirement for reference numerals. The Examiner's suggestions for changes of wording seem quite appropriate to me and, unless you have any other idea, I suggest they be adopted.

The amendment in claim 3 is trivial, while claims 2, 4, 5, 6 and 7 are found allowable as they stand.

The Examiner is not so inclined to accept the apparatus claims, 8 on the ground that the novelty of the apparatus claim is an obvious modification of known apparatus required to make the article defined in claim 1. I am not sure that this is a true statement of the law and would be prepared to contest it. The Examiner has misinterpreted the paragraph bridging pages 2 and 3, which merely states that the modification of the known apparatus is "simple", that is easy, and not that it is not ingenious. The Examiner also says that the apparatus claim is not dependent on claim 1, although in form it does include a reference to claim 1, and since in general terms it is permitted to append an apparatus claim to a claim to a process, I am doubtful of her suggestion that the apparatus must inevitably be regarded as a different invention. The searching examiner evidently did not think so, because he purports to have examined all the claims.

I am not sure how important you think the apparatus claims are. Acceptance of this application could be obtained quickly and cheaply by cancelling the apparatus claims, if the claims to the cigarette give you all the protection you need. On the other hand, if you would like to attempt to justify the

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apparatus claims I shall be quite happy to look into the arguments available and reply accordingly.

Please let me have your instructions in due course.

Yours sincerely,

J.H. BASS

Enc: Copy official action.

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